

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

**Minute Entry**

**Hearing Information:**

**Debtor:** LIZETTE ALEJANDRO PENA  
**Case Number:** 21-00066-ESL13  
**Chapter:** 13  
**Date / Time / Room:** 09/01/2021 09:30 am teams1  
**Bankruptcy Judge:** ENRIQUE S. LAMOUTTE  
**Courtroom Clerk:** DARHMA ZAYAS  
**Reporter / ECR:** JOSE ROMO

**Matter:**

Evidentiary hearing on former Ch.7 Trustee's motion for disgorgement of fees (Dkt. #28), Response by former attorney Lyssette Morales (Dkt. #44), and Former Ch.7 Trustee's reply (Dkt. #54)

**Appearances:**

LYSSETTE MORALES, FORMER COUNSEL FOR DEBTOR  
LUISA VALLE CASTRO, ESQ. COUNSEL FOR L. MORALES  
CARMEN D. CONDE, ESQ. COUNSEL FOR L. MORALES  
NOREEN WISCOVITCH RENTAS, ESQ. FORMER CH.7 TRUSTEE  
ROBERTO NEGRON, ESQ. COUNSEL FOR N. WISCOVITCH (PRO-BONO)  
JESUS ENRIQUE BATISTA SANCHEZ, ESQ. COUNSEL FOR DEBTOR  
JOSE CAPO, ESQ. U.S. TRUSTEE

**Proceedings:**

Counsel for the Debtor, Jesús E. Batista, informed that the Debtor had no interest in the controversy between the former chapter 7 trustee and debtor's former counsel.

The court stated the controversy scheduled for an evidentiary hearing was the motion for disgorgement of fees filed by the former chapter 7 trustee on the grounds that the same were property of the estate if paid post-petition and former counsel's failure to comply with her ethical and statutory responsibilities. Allegations that have been opposed by former counsel Morales. The court noted that the parties have filed proposed findings of fact and conclusions of law.

The court raised *sua sponte* the issue of standing of the former chapter 7 trustee to prosecute the action before the court. The same is based on the following decisions:

In re O'Neil, 2021 WL 2069922, (B.A.P. 1<sup>st</sup> Cir. 2021)  
In re Newcare Health Corporation, 244 B.R. 167, (B.A.P. 1st Cir. 2000)  
In re Torres Martinez, 397 B.R. 158, (B.A.P. 1st Cir. 2008)  
In re Hitchcock, 623 B.R. 312 (Bankr. E.D. Mich. 2021)  
In re Mateer, 559 B.R. 1 (Bankr. Mass. 2016)  
In re Cousins International Food, Corp., 565 B.R. 450, (B.A.P. 1st Cir. 2017)

**Order:**

The movant, former chapter 7 trustee, shall file legal memorandum in support of her position of having standing to prosecute the matter before the court, both pre-conversion and post-conversion, particularly addressing the provisions in §348(e). Former counsel for the debtor, Lyssette Morales, is granted 14 days to reply. The U. S. Trustee is granted, as requested, 30 days from today to state its position.

/s/ Enrique S. Lamoutte  
U.S. Bankruptcy Judge